

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

DONALD WAYNE PEERY,	)	
Petitioner,	)	Civil Action No. 7:16cv00070
	)	
v.	)	
	)	
DIRECTOR, VIRIGNIA	)	By: Elizabeth K. Dillon
DEPARTMENT OF CORRECTIONS	)	United States District Judge
Respondent.	)	

**MEMORANDUM OPINION**

By order entered February 26, 2016, the court conditionally filed Peery's petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2254. In the conditional filing order, the court ordered Peery to provide information concerning the timeliness of his petition and to either pay the filing fee or apply to proceed *in forma pauperis*. The court advised Peery that failure to comply with the court's order within ten days would result in the dismissal of his petition without prejudice. Peery did not respond to the court's order.

Inasmuch as the time to respond has passed and Peery has failed to comply with the court's order, the court will dismiss this action without prejudice. Peery may re-file his claims in a separate action.

An appropriate order will be entered.

Entered: March 14, 2016.

*/s/ Elizabeth K. Dillon*  
Elizabeth K. Dillon  
United States District Judge